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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-first session

SUMMARY RECORD OF THE 1233rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 15 August 1997, at 10 a.m.

Chairman: Mr. BANTON

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Twelfth and thirteenth periodic reports of Norway (CERD/C/281/Add.2; HRI/CORE/1/Add.6) (continued)

1. At the invitation of the Chairman, the members of the Norwegian delegation resumed their seats at the Committee table.

2. Mr. WILLE (Norway) thanked the Committee for the fairness of its comments about Norway's report; all comments would be passed on to the relevant Government departments.

3. Information relating to the situation of ethnic minorities in Norway was difficult to gather because of the legislation on the privacy of data relating to individuals; a case in point was Sami education. Some municipal statistics were available, showing for instance, that the level of education in the northernmost provinces, where most indigenous people lived, was lower than in the rest of the country. However, in Karasjok and Kautokeino, the two municipalities with the highest Sami population, the latest figures showed that educational standards were actually higher than the average, particularly for Sami women.

4. Members had applauded the fact that Norway had consulted non-governmental organizations (NGOs) in the preparation of its report to the Committee and other United Nations bodies. However, the Government was well aware that the preparation of the report was its responsibility, and not that of any other body.

5. The results of the annual surveys of attitudes towards immigrants and immigration policy described in paragraph 45 of the report (CERD/C/281/Add.2) showed that the process of building tolerance was a slow one, but the latest survey in 1996 revealed a steady improvement in attitudes, with up to 70 per cent of respondents believing that Norway should accept refugees to at least the same extent as before.

6. Referring to the forthcoming general election, members had noted the strong position of the Progressive Party, which currently stood at 23 per cent in the opinion polls. It was also true that the Progressive Party had declared its intention of abolishing the Sami Assembly and reducing Sami language rights. As a civil servant, he felt that he should not comment further on party political matters.

7. On the subject of the status of the Convention in national law, a new provision of the Constitution, article 110 (c), added in 1994, stated that the authorities of the State must respect and ensure human rights and that further provisions would be laid down by statute. Measures were now under way to pass an act which would incorporate certain international human rights Conventions into Norwegian law. The three conventions under consideration so far were the United Nations International Covenant on Civil and Political Rights, the

International Covenant on Economic, Social and Cultural Rights, with their optional protocols, and the European Convention on Human Rights. However, the International Convention on the Elimination of All Forms of Racial Discrimination was still upheld in the Norwegian courts under the "principle of presumption", whereby national law should be interpreted in such a way as to ensure that there was no conflict with international treaties to which Norway was a party.

8. Members had asked many questions about the Sami population of Norway. The world population of Samis numbered between 70,000 and 100,000, of whom 70 per cent lived in Norway. Ten per cent of the Samis in Norway made their living from reindeer husbandry in the far north of the country, and the rest were scattered around the country and had all kinds of jobs.

9. The status of the Sami people was laid down in article 110 (a) of the Norwegian Constitution, under which the State was obliged to create conditions enabling them to preserve and develop their language, culture and way of life. Norway had also ratified the ILO Convention concerning Indigenous and Tribal Peoples (No. 169, 1989). The Sami Assembly was free to decide which matters it would deal with, and which public bodies it should address. Other public bodies were obliged to consult the Assembly in matters affecting the Sami people. The Assembly dealt with the allocation of funds for cultural, craft and children's activities for the Sami people. The Assembly was active in international bodies such as the Working Group on Indigenous Populations of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, and participated in the work on the draft declaration on the rights of indigenous peoples.

10. Regarding Sami language rights, since 1992 the Sami and Norwegian languages had enjoyed equal status in six municipalities in the north of the country. People had the right to use the Sami language in their written and oral dealings with the public administration, the courts, the health system, etc. If three pupils in any school requested teaching in the Sami language, they had the right to receive it.

11. The Sami Assembly had 39 members. In order to vote for the Assembly, people must consider themselves to be Samis, and they or their parents or grandparents must use the Sami language at home. Those conditions were the nearest Norway came to a definition of the term "Sami minority". In reply to Mr. Wolfrum's question whether that "definition" contradicted that used for the Finno-ethnic (Kven) group, he observed that the two definitions were used in a different context, since the designation "Finno-ethnic" was more subjective and more a matter of personal choice. In the past, not many of the Finno-ethnic population had actually spoken Finnish, but there was currently a revival of interest in the language.

12. Members had asked about a complaint by the Skolte Sami population to the European Commission of Human Rights, claiming the exclusive right to practise reindeer husbandry as an essential part of their culture and way of life. In fact, legislation had now been passed which gave the Sami people the exclusive right to practise reindeer husbandry in their traditional lands.

13. The Government carried out affirmative action in favour of the Sami population, although it did not always approve affirmative action for other groups.

14. Norway had analysed its implementation of article 4 (b) of the Convention both before ratifying the Convention and since, most recently in a parliamentary debate in 1991. Actual acts of racial discrimination were punishable under the Penal Code. At the same time Norway was anxious to protect the rights to freedom of expression and freedom of association. The Government therefore considered that it had fulfilled its obligations under article 4 (b) of the Convention without expressly prohibiting racist organizations.

15. The Country Rapporteur, Mr. Rechetov, had quoted information, apparently from the Office of the United Nations High Commissioner for Refugees (UNHCR) about two minors who had sought asylum but had been deported from Norway without their families being informed. He had not been able to find any details of those specific cases, but in general such action would not be permissible. Any further information which emerged would be included in the next periodic report.

16. Ms. BAKKEN (Norway) said she had no figures on the decrease in racial violence following the adoption of the Brumunddal Plan of Action, designed to reduce racial violence and harassment, but reports from a Vietnamese group indicated that violence and damage had been reduced since the introduction of the Plan of Action, although racist insults had not decreased. Research had shown that verbal abuse, while not physically damaging, still caused considerable distress, and the Government was therefore taking it very seriously. The main group which had suffered harassment before the inception of the Plan had been the Iranians. Many of them had chosen to move before the Plan had been introduced, so there was no way of knowing whether they would have benefited from it. Research indicated that the area was no longer such a target for racist or xenophobic groups.

17. Members had asked about the work of the advisory team to combat racial violence and harassment referred to in paragraph 41 of the report. Extreme right-wing groups had been seen as the main threat, because many racist incidents took place at demonstrations involving groups who displayed extreme right-wing emblems. The costs of the advisory team were paid by local government, but in certain circumstances the central Government's Directorate of Immigration paid for an initial consultation. The advisory team was made up of researchers and specialized social workers.

18. Mr. Rechetov had asked about the languages used for local election information in the September 1995 elections. Information had been produced in Norwegian and 14 other languages, including Urdu, Punjabi, Hindi, Tamil and Polish. Only 40 per cent of immigrants had participated in the election. The number of people from an immigrant background elected to local government was low, although the proportion in Oslo, where many immigrants lived, was higher at 7.2 per cent, which was a reasonable reflection of the proportion of immigrants in the population. A list of immigrant candidates had been prepared, but no one had been selected from it.

19. Unemployment among immigrants had fallen slightly, from 12 per cent in February 1996 to 10.6 per cent in February 1997. Unemployment had declined among all immigrant groups except people from Eastern Europe, which was probably explained by the large number of refugees from Bosnia and Herzegovina who had only recently arrived. The figure of 25 per cent quoted by members might have been true a year before for certain national groups. For some other nationalities, the unemployment rate was close to the national average of 4 per cent. The Government was concerned about the level of unemployment among the immigrant community. Immigrants were entitled to undertake vocational training, even if they came from an academic background, although people with higher qualifications often went to universities or other high-level institutions for further training. The system for the recognition of foreign qualifications was being reviewed. Mr. Rechetov had asked whether people with special skills were able to obtain work permits. Naturally, if the skills in question were ones which Norway needed, such as those required for the oil industry or the health service, then a work permit would be granted.

20. Mr. Rechetov had asked whether multicultural teaching had been organized in a way which avoided possible disputes with immigrant groups. Education in Norway was indeed multicultural and, as far as she was aware, no conflicts had arisen.

21. The municipalities were at liberty to provide mother-tongue education for children whose first language was not Norwegian: however, it was not compulsory as implied by paragraph 170 of the report. Mother-tongue teaching usually took place in the first four grades of primary school, and was used as a tool to help the child to learn Norwegian. The subject of mother-tongue education was currently being debated in Norway, and more details would be included in the next periodic report.

22. In respect of article 3 of the Convention, Mr. Sherifis had asked whether immigrants were segregated in Norway. There was no policy of segregation, although 58 per cent of immigrants lived in the 10 biggest municipalities. Refugees were settled all over the country as a matter of policy. Immigrants tended to be concentrated in certain areas of the capital, Oslo, and in one particular area, Oslo Inner East, a special programme of action had been introduced to improve housing, traffic conditions, etc. over the next 10 years.

23. Ms. KOLSHUS (Norway) noted that members had questioned the terms "established"/"settled" minority group. Since there was no official definition of a minority in Norway, the terms were used to distinguish ethnic groups which had lived in Norway for a long time from more recent arrivals. Norway was in the process of ratifying the Council of Europe framework Convention for the protection of national minorities, for which a precise definition of "national minority" would be needed.

24. Mr. Rechetov had asked about the demographic information provided in the report. The figures showed approximately 120,000 immigrants from Europe, of whom approximately 40,000 came from other Nordic countries and enjoyed special rights.

25. She had been unable to find the details of the specific cases of two students who had been deported from Norway, but in general foreign students were allowed into Norway under certain conditions and would be deported if those conditions were not respected. Any further information would be included in the next periodic report.

26. The final results of the survey of prosecution practices related to section 135 (a) and section 349 (a) of the Penal Code were not yet available, but preliminary results listed 40 allegations of violations of article 135 (a) and 8 allegations connected with section 349 (a), which was the less serious of the two. Seventeen of the 40 cases had been dropped before coming to court. More information would be included in the next periodic report.

27. A number of members had referred to a case in which the leader of a small political party had expressed views which had offended the immigrant population. He had been convicted under section 135 (a) of the Penal Code, but had appealed against that decision to the Supreme Court. Any further information would be included in the next periodic report.

28. Mr. Rechetov had asked about the decrease in the number of complaints of racially motivated crimes. There was no real information to explain the decrease. The police took its responsibilities very seriously, and plans had been introduced to improve relations with minority groups in matters such as racial discrimination and immigration. Special police patrols had been instituted in some cities where people of immigrant backgrounds had been denied entry to nightclubs or restaurants. The police worked together with a number of NGOs in that area. At the national level, a plan governing the policy of the police in immigration control was due to be completed in October 1997.

29. She had no official information about the number of people with an immigrant background working in the public sector. However, a survey by the Anti-Racist Centre found that the proportion of immigrants working for the central government was only about 2 per cent, but that the figure for Oslo was about 10 per cent. In 1997, nine applicants with an immigrant background had sought admission to the police force.

30. The customs service had contacted an NGO for advice on the recruitment of people from ethnic minorities although, owing to financial constraints, no customs officers had been recruited in the previous 18 months. A member had asked whether certain admission requirements, such as language ability, would be waived in the case of applicants from an ethnic minority. The customs service was not willing to waive the language requirement, but it intended to emphasize in its recruitment advertising that applicants need not be Norwegian citizens.

31. Members had welcomed the directive issued by the Ministry of Justice encouraging municipalities to select jury members from ethnic minorities. She thanked Mr. van Boven for his comment on one particular case, which she would pass on to the relevant department.

32. Mr. Wolfrum had referred to the case of a Muslim private school. It was true that such a school had been denied permission to open, on the grounds that integration of Muslim children would be better achieved by sending them to ordinary Norwegian schools.

33. Mr. van Boven had asked whether the victim of an offence under the Penal Code could also claim civil damages. That was possible under Norwegian law, but she had no specific information about cases related to racial discrimination. Any available information would be included in the next periodic report.

34. Mr. de Gouttes had asked about the possible establishment of a national institute against racism. For a five-year test period, free professional legal advice was being provided for victims of racial discrimination, which was partly intended to gain more information to help with future planning.

35. Mr. Valencia Rodriguez had noted that racial motivation could be counted as an aggravating circumstance in cases of serious vandalism, and had asked what happened in less serious cases. She could assure him that racial motivation was also taken into account in less serious cases.

36. Mr. Valencia Rodriguez had also asked about the detention of immigrants. Under section 37 (5) of the Immigration Act, foreign nationals could be detained for up to 12 weeks if their identity was in question. In 1995-1996, 75 such foreign nationals had been kept in detention, of whom 59 had been asylum-seekers. Fifty people had been kept in detention in 1995, 23 of them for over 12 weeks, and 25 people in 1996, 4 of them for over 12 weeks.

37. Mr. WILLE (Norway) confirmed that Radio Nite Rocket was without a licence for the time being and that its renewal was under consideration by the Government.

38. The proposed amendment to the Working Environment Act, referred to in paragraph 150 of the report, had been submitted to Parliament but there had been no time for action to be taken before the elections. It would therefore be up to the new Government to submit the proposal at a later date.

39. The spokesman system in the armed forces, whereby soldiers elected a spokesman to take up complaints with the more senior levels and in certain welfare matters, was now being used to combat racial discrimination.

40. Although a separate legal prohibition against racial discrimination in connection with the renting or purchasing of a dwelling was under consideration, as stated in paragraph 164 of the report, there were no plans to submit a bill to Parliament for the time being. The problem particularly concerned the private rental sector. Cases of racial discrimination could be taken to court under a general prohibition against discrimination in the Penal Code. However, it was up to the individual concerned to prove that discrimination had taken place and the time and cost involved often proved to be a deterrent. The problem was also aggravated by language difficulties and a lack of knowledge of the housing market. The Government was establishing a five-year provisional arrangement to monitor the situation and try to improve the possibilities of legal assistance in discrimination cases.

41. The Norwegian reports and the Committee's conclusions were public documents in Norway. The concluding observations had so far been sent to all relevant government authorities and had sometimes been discussed in follow-up meetings. They were also submitted to other bodies including interested NGOs. The concluding observations resulting from the present session would be published in a newsletter produced by the Ministry of Local Government and Labour and sent out to the municipalities, the Directorate of Immigration and other bodies every two months.

42. With regard to the participation of the Sami people in Parliament, one Sami woman who represented the Centre Party had made a speech in Sami in Parliament, which she had translated into Norwegian; there were a number of other members of Parliament and one minister.

43. Quotas were used for the Sami in the education system and other areas and their use in the labour market had been considered, in consultation with immigrant groups, but insufficient support had been generated.

44. With regard to the statement made by the National Board of Health on HIV/AIDS, a press release had been issued and a letter sent to the Board's counterparts in Europe and to the Centre for Human Rights, which was requested to make it available to interested Committee members.

45. Mr. AHMADU, referring to paragraph 12 of the report, said that it would be useful in future to have a closer breakdown of the different nationalities living in Norway. In the African group, there were undoubtedly Nigerians and other western and central African nationalities in addition to the Ghanaians, and certainly Egyptians and Algerians as well as Moroccans.

46. Pursuing a question raised by Mr. Diaconu the previous day, he wondered whether it was true that a party leader had declared that he would abolish the Sami Assembly once in power, and whether there was any reasonable chance of his being elected.

47. Mr. YUTZIS said that his first reaction to the spokesman system had been that it was a generous gesture, but on reflection he wondered why it was necessary to have someone else to convey complaints, problems or concerns to superior officers.

48. The Committee would be interested to learn of the position of the National Board of Health. Any suggestion that Africans represented a threat to the Norwegian population as far as the transmission of AIDS was concerned would indeed constitute a significant discriminatory if not racist statement.

49. The relationship between language and employment was not an easy matter to resolve, but the authorities did not appear to be addressing it as a matter of priority. It was particularly important to find ways in which the language could best be taught to foreigners, bearing in mind the difficulties experienced by many in learning another language. In addition to the language problem, however, there were certain perceptions of foreigners in society which made prospective employers reluctant to employ them. More information on that aspect would be useful.

50. Mr. GARVALOV said that it was interesting that all three of the Nordic countries to have appeared before the Committee at the present session had a policy of integration. In Norway's case he wondered whether it was aimed at the longer established minorities or the newly arrived immigrants. Integration needed to be carried out in the light of the provisions of the Convention. The State party had a sovereign right to follow an integration policy, but the Committee sought assurances that it would not involve any differentiation between persons who were ethnically or otherwise different.

51. Mr. SHAHI, referring to paragraph 11 of the report, asked what percentage of third generation immigrants had become Norwegian citizens.

52. With regard to language difficulties, if greater attention were paid to teaching the Norwegian language to immigrants their job prospects would undoubtedly improve, as language was a particularly important factor in recruitment.

53. Drawing attention to the reference in paragraph 11 of the core document (HRI/CORE/1/Add.6) to a committee of lawyers to propose constitutional or statutory provisions to increase the effectiveness of human rights instruments in Norway, he asked for information on the current status of human rights treaties in Norwegian law.

54. Mr. de GOUTTES said he was grateful for the explanation of the Government's efforts to combat racial discrimination at a crucial time of an upsurge of the extreme right and its political parties and their exploitation of hostile and xenophobic ideas about the Sami and immigrant minorities, in the run-up to the September elections. The manifestations in Norway reflected the trend in several European countries and elsewhere. The Government's policies were being tested and the Committee looked forward to reading of the outcome in Norway's next report.

55. Mr. ABOUL-NASR said that he was not against integration provided that it was not forced and that the minorities concerned were not deprived of their own religion and customs. In that connection he asked for further information about the refusal to allow a Muslim school to be established and whether similar requests by other religious groups had also been refused. Where could Muslims teach their religion and culture to their children if not in school?

56. Mr. WILLE (Norway) said that the delegation had taken due note of Mr. Ahmadu's comments regarding the demographic breakdown and would bear them in mind in the future.

57. His personal view was that there was no wide support for the abolition of the Sami Assembly and he was confident that the trend towards giving greater powers to the Samis and their Parliament would continue.

58. It was not compulsory for soldiers or other individuals to pursue their complaints through a spokesman: they were free to follow up their own complaints.

59. With regard to the statement by the National Board of Health about the so-called high risk groups, the reaction in certain sectors had been such that

the Board had apologized and emphasized that its goal had always been to protect all parts of the population in Norway, without prejudice, against HIV/AIDS.

60. Norway's policy of integration did not mean assimilation and did not involve force. Its aim was to have a society with equal opportunities, where everyone could develop their own cultural and religious interests and language.

61. The Muslim school had been denied permission first and foremost for linguistic and not religious reasons. Children from any religious group could be exempted from religious instruction in Norwegian schools so that they could receive religious instruction in their own religious centres. The question of the Muslim school had involved a very difficult decision.

62. Norwegian citizenship could be applied for after seven years' residence, although certain categories could apply sooner. Third generation immigrants could certainly apply.

63. The Committee and Country Rapporteur were thanked for having examined Norway's report in a fair and constructive way. Norway attached great importance to the dialogue, and the delegation had taken due note of the comments and suggestions of the Committee and would submit them to the relevant authorities.

64. Mr. RECHETOV (Country Rapporteur) thanked the delegation of Norway for its report, which had further enhanced his respect for Norway.

65. There remained, however, the question of the status of the Convention vis-à-vis Norwegian legislation, because he was not convinced that its full implementation had been ensured. It was hoped that due note would be taken of the importance of the Convention in the scheme of human rights and that that would be reflected in its full incorporation into Norwegian law. The principle that there should be no contradiction between international and domestic norms in legal practice was not the issue: what was important and should be made clear was whether in cases of conflict, international law prevailed.

66. He noted that Norway had provided a wealth of valuable additional information on the Sami, including the welcome news that it had ratified ILO Convention No. 169 and that in six municipalities the Sami language was on an equal footing with Norwegian and had been admitted for use in the courts. He also hailed as positive the information that education in the Sami language was progressing, particularly among Sami women. Nevertheless, he did not agree fully with the assertion by the delegation that the provisions of article 4 (b) of the Convention had been fully implemented in Norway.

67. The deportation from Norway of unaccompanied minors who had entered the territory was a very serious matter and deserved careful attention, which he hoped would be informed by the data he had conveyed to the delegation.

68. The participation of NGOs in compiling the report testified to the care given by Norwegian authorities to information from such sources, for which they were to be commended, if only because that practice was not the norm.

69. There was nothing to indicate that there was any forced assimilation of ethnic minorities. There were persistent fears to that effect but he was convinced that the question of assimilation was left to the minorities themselves to decide.

70. He urged the Norwegian Government to pay heed to Mr. de Gouttes' warning about the destructive potential of some political forces which threatened to undermine democratic societies such as Norway's and ultimately stunt their achievements.

71. The CHAIRMAN thanked the delegation of Norway and conveyed the Committee's congratulations to the State party for its encouraging report and response to the Committee's observations on the previous periodic report.

72. The delegation of Norway withdrew.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 4) (continued)

Bosnia and Herzegovina

73. Mr. van BOVEN (Country Rapporteur) recalled that the Committee had offered its good offices within the framework of its early warning and urgent procedures through its decisions 1 (48) and 1 (49) adopted the previous year and had sought to respond to the new situation that had come about in Bosnia and Herzegovina following the Dayton Agreement of 1995. The main question yet to be addressed was therefore the extent to which the relevant Dayton Agreement provisions had been implemented, since, according to information available in the report of the Special Rapporteur of the Commission on Human Rights, Ms. Elisabeth Rehn (E/CN.4/1997/56), much remained to be achieved in that regard.

74. The Special Rapporteur had found that the institutions created under the Agreement were not all functioning as they should and while there had been some progress in the field of human rights, in particular with the creation of a national Commission on Human Rights, progress throughout 1996 had been minimal in certain key areas such as the return of refugees and displaced persons to their homes. There certainly was cause for concern about the situation in Bosnia and Herzegovina insofar as it remained a divided country and the trend was towards a permanent demarcation of national and ethnic boundaries which echoed the confrontational lines between the groups.

75. A major issue of concern was whether refugees and displaced persons could and did return. The Dayton Agreement guaranteed them the right to do so and the International Covenant on Civil and Political Rights also provided for free choice of place of residence to all persons lawfully within a State's territory. Serious obstacles to those rights still existed in Bosnia and Herzegovina. Of more than 2 million citizens who had been displaced, UNHCR

estimated that only 250,000 had returned, mostly to areas controlled by authorities of their own national groups. He drew attention to the Committee's General Recommendation XXII (49), which emphasized the right of all refugees and displaced persons freely to return to their homes of origin under conditions of safety and the obligation of States parties to ensure that the return of such persons was voluntary and to observe the principle of non-refoulement and non-expulsion of refugees.

76. He welcomed the reference to the Convention in paragraph 21 of the report of the Special Rapporteur, one of the very few mentions of the Convention by rapporteurs of the Commission on Human Rights. Incidents of harassment and threats on the basis of national origin and political opinion which had come to the Special Rapporteur's attention had made it clear that freedom from discrimination enshrined in the Convention and other human rights instruments was not effective in Bosnia and Herzegovina.

77. He quoted from General Recommendation XXII (49), paragraphs 2 (c) and (d), to recall the Committee's position on the points raised by the Special Rapporteur on property rights in Bosnia and Herzegovina, where domestic legislation and administrative practices which interfered with property rights and the right to return and conflicted with the Dayton Agreement were still in effect and were being implemented, hindering the return of refugees and displaced persons.

78. According to the Special Rapporteur's report, persons, among them Mr. Radovan Karadzic, who had been indicted by the International Criminal Tribunal for the Former Yugoslavia (ICFY) for grave violations of humanitarian law had been enjoying impunity and freedom of movement throughout the territory without fear of apprehension. In resolution 1997/57, the Commission on Human Rights had called upon all States and all parties to the Peace Agreement to meet their obligations to cooperate fully with the Tribunal, particularly with respect to bringing indicted persons before the Tribunal. The Committee had made several calls to that effect as well, notably in paragraph 4 of its decision 1 (49).

79. Those were some of the points of particular relevance. He had no particular proposals to make in the light of his report but remained open to suggestions from members of the Committee.

80. The CHAIRMAN asked Mr. van Boven whether he had considered analysing in his report the manner in which the mass media reported on events in Bosnia and Herzegovina and the extent to which its reporting contributed to deepening divisions.

81. Mr. van BOVEN said that the question had not been at the forefront of his mind when he had prepared the report but he was willing to consider it further if members of the Committee so wished.

82. Mr. RECHETOV asked whether Mr. van Boven had any information, or knew where information might be available, on how the 2 million refugees he had referred to were broken down by nationality. When had the largest waves of ethnic cleansing occurred?

83. Mr. van BOVEN said he had no specific information beyond what was contained in the report of the Special Rapporteur.

84. Mr. ABOUL-NASR said the Committee should have been better prepared to discuss the topic by having its attention drawn to the documents to be considered. Better organization would also have enabled the Country Rapporteur to draw on information other than the two reports of the Special Rapporteur. Had the State party refused to attend the meeting, or not replied to the request? When and where had it been notified that it would be discussed by the Committee? The Committee should issue a short statement noting that the State party had not attended the relevant meeting, despite having been notified, referring to the Committee's previous decisions on Bosnia and Herzegovina, expressing serious concern at the continuing problems, such as displacement, and urging that efforts must continue to implement the Agreement and find a solution to the problems, especially those of direct concern to the Convention, such as ethnic cleansing, the return of displaced persons and property.

85. Mr. van BOVEN said he agreed, but would like his situation to be understood. He had no office or staff, and requests for information or assistance were not always answered or, if they were, were not always of great use. If the Committee wanted to continue with the early warning and urgent procedure in a serious manner, it would have to re-examine its methods and sources of information failing which the procedure risked becoming a symbolic gesture of no value whatsoever. He also saw very little purpose in drafting any statements that were merely symbolic.

86. Mr. HUSBANDS (Acting Secretary) said the State party had been notified of the present meeting - in writing on 9 June, and also by telephone. The Permanent Mission had told him the matter had been discussed with the capital and it was the Government's wish not to have anyone attend. A reference file contained all the documentation, which had been sent to the Country Rapporteur; a duplicate set was available in the meeting room. In addition, each member of the Committee had received a copy of all the documents on the first day of the session. There were 33 documents in the Bosnia and Herzegovina file; Mr. van Boven had relied extensively on only one. In future, it would be helpful for country rapporteurs under the prevention procedure to tell the Secretariat which documents they would be relying on most, so that they could be distributed to all members in advance.

87. Mr. WOLFRUM said that the Committee's working methods could be much more effective if it received the bulk of the information at least four to five weeks before each session, which was not now the case.

88. He knew from the mass media and other sources that some of the many refugees from Bosnia and Herzegovina who had returned to their country from Germany had done so voluntarily and some had not; each German Land acted differently. How were those refugees being received in Bosnia and Herzegovina? His information was that, if they were Muslims and were returning to a place of origin predominantly populated by the Muslim community, they were well received; if, however, they were Bosnian Serbs or Croats returning to a place predominantly inhabited by another community, they faced tremendous problems. Houses recently built by the European Union, for

example, had been burned down. The problem of continuing ethnic cleansing was reported by all the mass media in Germany, and his perception was therefore different from Mr. van Boven's.

89. The Committee should state that it had discussed the situation; deplore the fact that the State party had not participated; and deplore the persistence of the effects of ethnic cleansing. He would, however, be opposed to saying anything about documentation.

90. Mr. SHERIFIS said it was true that the Country Rapporteur had been working under difficult circumstances. The Committee must study the procedure further, and if it wished to continue with it, should proceed in a serious and businesslike fashion. The Committee could do better than to make symbolic gestures, especially with issues of such paramount importance. The Country Rapporteur had quoted extensively from the Special Rapporteur's report, dated 29 January 1997, but there had been other important developments since then, such as the 30 May meeting of the Steering Committee of the Peace Implementation Conference, at the ministerial level, to review progress in implementing the Bosnia and Herzegovina Peace Agreement. That Committee had expressed its deep concern with the pattern of discrimination and harassment of ethnic minorities throughout the country, which had occurred with the complacency of the authorities. It had also requested the competent authorities to cooperate with the Real Property Commission and with the Commission on Human Rights.

91. There were competent officials within the Secretariat who dealt with the issue: why not ask them to be present and provide inside information when the Committee next considered it? The Committee's next session coincided with that of the Commission on Human Rights; why not ask the Special Rapporteur to be present during the Committee's consideration of the issue? The Committee could also simply reiterate the position expressed in the decisions adopted at its forty-eighth and forty-ninth sessions.

92. Mr. de GOUTTES supported the suggestion to invite the Special Rapporteur to address the Committee. A statement based on Mr. Aboul-Nasr's proposals could be envisaged, stressing the four issues highlighted by Mr. van Boven: displaced persons; security of person; property rights; and the questions of impunity and cooperation with the International Criminal Tribunal. The Committee should also ask to be informed in greater detail on the work done by the Ombudsperson, Mrs. Haller, and the Dayton-created Commission on Human Rights, composed of judges from Bosnia and Herzegovina and judges designated by the Council of Europe.

93. Mr. RECHETOV said he agreed with Mr. Aboul-Nasr and was in favour of the Committee continuing its work on the subject. Information on the 2 million refugees could certainly be obtained.

94. The resolutions of the Security Council had never set the International Criminal Tribunal the task of defining a legal concept for ethnic cleansing. It had once been said that genocide could not be defined legally, and yet it had been done. There was not a single reference to ethnic cleansing in the Statutes of the Hague Tribunal, and yet people were already being put on trial and accused of particular war crimes, acts of violence and genocide. He asked

Mr. van Boven, who had been present when the Statutes had been devised, why there was no definition of ethnic cleansing as a new crime. If all the facts and figures were available on how it had all taken place, justice could be done in a more tangible way.

95. Mr. GARVALOV said the Dayton Agreement was not working as intended, and the major issues had not been resolved. Division lines remained, as did ethnic cleansing or racial discrimination or harassment on ethnic and other grounds; that was the present situation in Bosnia and Herzegovina. Rather than reiterating the Committee's previous decisions, he would prefer that it express its deep concern that very little had been done in the way of resolving the major issues in the State party. If present trends continued, the lines of division would only deepen; the idea of changing the attitudes of the different ethnic groups within 10 or 20 years was not realistic.

96. Mr. SHAHI said it might not be appropriate to refer to the absence of a State party representative; one dispute among the key factions there had been their failure to agree on a list of diplomatic representatives, although the problem might since have been resolved through the efforts of United States ambassador Richard Holbrooke. The major issues remained, however; they had still not been resolved in accordance with the Dayton process. The Committee should stress the importance of removing war criminals from positions of authority, even if they had already resigned from their formal positions, as indispensable to any progress in implementing the remaining aspects of the Dayton Agreement.

97. The Committee already had sufficient information to draw up a statement along the lines suggested. It had followed developments in Bosnia and Herzegovina through the mass media, and it knew the main outlines of what needed to be accomplished. Mr. van Boven was in a position to draft such a text. It would have more than just symbolic value; after all, what value did many Security Council resolutions have? The Committee should not feel diffident on that account; having placed Bosnia and Herzegovina on the agenda of every session, silence might be construed as a lack of interest or indifference, or as meaning that the Committee wished to abdicate its responsibility for finding a way to improve the situation.

The meeting rose at 1.05 p.m.